

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 167

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING CRITERIA AND PROCEDURES  
FOR FUNDING PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS FOR PUBLIC  
SCHOOL BUILDINGS; AUTHORIZING THE ISSUANCE OF SUPPLEMENTAL  
SEVERANCE TAX BONDS; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX  
BONDS; CREATING A DEFICIENCIES CORRECTION UNIT AS PART OF THE  
PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL; CREATING THE PUBLIC  
SCHOOL CAPITAL OUTLAY TASK FORCE; MAKING APPROPRIATIONS;  
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-12 NMSA 1978 (being Laws 1961,  
Chapter 5, Section 10, as amended) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED. --

A. The state board of finance shall issue and sell

1 all severance tax bonds when authorized to do so by any law  
2 that sets out the amount of the issue and the recipient of the  
3 money.

4 B. The state board of finance shall also issue and  
5 sell severance tax bonds authorized by Sections 72-14-36  
6 through 72-14-42 NMSA 1978, and such authority as has been  
7 given to the interstate stream commission to issue and sell  
8 such bonds is transferred to the state board of finance. The  
9 state board of finance shall issue and sell all severance tax  
10 bonds only when so instructed by resolution of the governing  
11 body or ~~[executive head]~~ by written direction from an  
12 authorized officer of the recipient of the bond money.

13 C. Except as provided in Subsection D of this  
14 section, proceeds from supplemental severance tax bonds shall  
15 be used only for public school ~~[critical]~~ capital outlay  
16 projects pursuant to the Public School Capital Outlay Act or  
17 ~~[for infrastructure renovation and expansion at the state's~~  
18 ~~public post-secondary educational institutions and other~~  
19 ~~institutions confirmed as state educational institutions in~~  
20 ~~Article 12, Section 11 of the constitution of New Mexico~~  
21 ~~pursuant to a plan developed and approved by the commission on~~  
22 ~~higher education to fund the highest priority significant needs~~  
23 ~~identified by the commission.~~

24 ~~D. The state board of finance shall issue and sell~~  
25

1 ~~all supplemental severance tax bonds when authorized to do so~~  
 2 ~~by any law that sets out the amount of the issue and names the~~  
 3 ~~public school capital outlay council or the commission on~~  
 4 ~~higher education as the recipient of the money. The state~~  
 5 ~~board of finance shall issue and sell supplemental severance~~  
 6 ~~tax bonds only when so instructed by resolution of the public~~  
 7 ~~school capital outlay council or by resolution of the~~  
 8 ~~commission on higher education pursuant to certification by the~~  
 9 ~~governing bodies of the appropriate educational institutions]~~  
 10 the Public School Capital Improvements Act.

11 D. Proceeds from supplemental severance tax bonds  
 12 issued pursuant to Paragraph (2) of Subsection A of Section 19  
 13 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the  
 14 purposes specified in that paragraph.

15 E. Except as provided in Subsection F of this  
 16 section, the state board of finance shall issue and sell all  
 17 supplemental severance tax bonds when so instructed by  
 18 resolution of the public school capital outlay council pursuant  
 19 to Section 7-27-12.2 NMSA 1978.

20 F. The state board of finance shall issue and sell  
 21 supplemental severance tax bonds authorized by Paragraph (2) of  
 22 Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.)  
 23 when so instructed by resolution of the commission on higher  
 24 education. "

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1 Section 2. A new section of the Severance Tax Bonding  
2 Act, Section 7-27-12.2 NMSA 1978, is enacted to read:

3 "7-27-12.2. [NEW MATERIAL] SUPPLEMENTAL SEVERANCE TAX  
4 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS.--

5 A. The public school capital outlay council is  
6 authorized to certify by resolution that proceeds of  
7 supplemental severance tax bonds are needed for public school  
8 capital outlay projects pursuant to Section 22-24-5 NMSA 1978  
9 or for the state distribution for public school capital  
10 improvements pursuant to the Public School Capital Improvements  
11 Act. The resolution shall specify the total amount needed.

12 B. The state board of finance may issue and sell  
13 supplemental severance tax bonds in compliance with the  
14 Severance Tax Bonding Act when the public school capital outlay  
15 council certifies by resolution the need for the issuance of  
16 the bonds. The amount of the bonds sold at each sale shall not  
17 exceed the lesser of the amount certified by the council or the  
18 amount that may be issued pursuant to the restrictions of  
19 Section 7-27-14 NMSA 1978.

20 C. The state board of finance shall schedule the  
21 issuance and sale of the bonds in the most expeditious and  
22 economical manner possible.

23 D. The proceeds from the sale of the bonds are  
24 appropriated as follows:  
25

1 (1) the amount certified by the superintendent  
 2 of public instruction as necessary to make the distribution  
 3 pursuant to Section 22-25-9 NMSA 1978 is appropriated to the  
 4 public school capital improvements fund for the purpose of  
 5 carrying out the provisions of the Public School Capital  
 6 Improvements Act; and

7 (2) the remainder of the proceeds is  
 8 appropriated to the public school capital outlay fund for the  
 9 purpose of making awards of grant assistance pursuant to  
 10 Section 22-24-5 NMSA 1978, except that, of the proceeds  
 11 received from the sale of the bonds in fiscal year 2002, fifty  
 12 million dollars (\$50,000,000) shall be used for projects to  
 13 correct outstanding deficiencies pursuant to Sections 22-24-4.1  
 14 and 22-24-4.2 NMSA 1978."

15 Section 3. Section 7-27-27 NMSA 1978 (being Laws 1961,  
 16 Chapter 5, Section 27, as amended) is amended to read:

17 "7-27-27. PURPOSE AND INTENT. --The purpose of the  
 18 Severance Tax Bonding Act is to establish the authority who  
 19 shall issue and sell all severance tax bonds [~~and supplemental~~  
 20 ~~severance tax bonds~~] for financing specific projects authorized  
 21 by the legislature and all supplemental severance tax bonds  
 22 pursuant to Section 7-27-12.2 NMSA 1978 and to guarantee  
 23 redemption of such bonds by revenue derived from the receipts  
 24 from taxes levied upon natural resource products severed and  
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1 saved from the soil and such other money as the legislature may  
2 from time to time determine. It is intended that projects to  
3 be financed from the fund shall include [~~but not be limited to~~]  
4 the construction of public school buildings, other buildings  
5 for state institutions and water resource projects; and it is  
6 further intended that the income from water resource projects  
7 in excess of the amount required for operation and maintenance  
8 of the project shall be used to repay the severance tax bonding  
9 fund. "

10 Section 4. A new Section 22-20-4 NMSA 1978 is enacted to  
11 read:

12 "22-20-4. [NEW MATERIAL] APPLICABILITY. -- The provisions  
13 of Chapter 22, Article 20 NMSA 1978 do not apply to public  
14 school capital outlay projects subject to the oversight of the  
15 public school capital outlay council pursuant to the Public  
16 School Capital Outlay Act. "

17 Section 5. Section 22-24-4 NMSA 1978 (being Laws 1975,  
18 Chapter 235, Section 4, as amended) is amended to read:

19 "22-24-4. FUND CREATED--USE. --

20 A. There is created the "public school capital  
21 outlay fund". Balances remaining in the fund at the end of  
22 each fiscal year shall not revert.

23 B. Money in the fund may be used only for capital  
24 expenditures deemed by the council necessary for an adequate  
25

1 educational program.

2 C. The council may authorize the purchase by the  
3 property control division of the general services department of  
4 property to be loaned to school districts to meet a temporary  
5 requirement. Payment for these purchases shall be made from  
6 the fund. Title and custody to the property shall rest in the  
7 property control division. The council shall authorize the  
8 lending of the property to school districts upon request and  
9 upon finding that sufficient need exists. Application for use  
10 or return of state-owned portable classroom buildings shall be  
11 submitted by school districts to the council. Expenses of  
12 maintenance of the property while in the custody of the  
13 property control division shall be paid from the fund; expenses  
14 of maintenance and insurance of the property while in the  
15 custody of a school district shall be the responsibility of the  
16 school district. The council may authorize the permanent  
17 disposition of the property by the property control division  
18 with prior approval of the state board of finance.

19 D. Applications for assistance from the fund shall  
20 be made by local school districts to the council in accordance  
21 with requirements of the council.

22 E. The council shall review all requests for  
23 assistance from the fund and shall allocate funds only for  
24 those capital outlay projects [~~that cannot be financed by the~~  
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1 ~~school district from other sources and~~] that meet the criteria  
2 of the Public School Capital Outlay Act.

3 F. Money in the fund shall be disbursed by warrant  
4 of the department of finance and administration on vouchers  
5 signed by the secretary of finance and administration following  
6 certification by the council that an application has been  
7 approved. "

8 Section 6. A new section of the Public School Capital  
9 Outlay Act, Section 22-24-4.1 NMSA 1978, is enacted to read:

10 "22-24-4.1. [NEW MATERIAL] OUTSTANDING DEFICIENCIES--  
11 ASSESSMENT--CORRECTION. --

12 A. No later than September 1, 2001, the council  
13 shall:

14 (1) define and develop guidelines, consistent  
15 with the codes adopted by the construction industries  
16 commission pursuant to the Construction Industries Licensing  
17 Act, for school districts to use to identify outstanding  
18 serious code deficiencies in public school buildings and  
19 grounds, including buildings and grounds of charter schools,  
20 that may adversely affect the health or safety of students and  
21 school personnel; and

22 (2) define and develop guidelines for school  
23 districts to use to identify those capital outlay projects  
24 needed in order to implement a full-day kindergarten program.



1                   B. As used in this section and Section 22-24-4.2  
2 NMSA 1978, "outstanding deficiency" means:

3                   (1) the capital outlay projects needed by a  
4 school district to implement a full-day kindergarten program;  
5 or

6                   (2) a serious code deficiency existing in a  
7 public school building or grounds, including a building or  
8 grounds of a charter school, that may adversely affect the  
9 health or safety of students or school personnel.

10                  C. A local school district shall use the guidelines  
11 developed pursuant to Subsection A of this section to complete  
12 a self-assessment of the outstanding deficiencies within the  
13 district and provide cost projections to correct the  
14 outstanding deficiencies.

15                  D. The council shall develop a methodology for  
16 prioritizing projects that will correct the outstanding  
17 deficiencies.

18                  E. After a public hearing and to the extent that  
19 money is available in the fund for such purposes, the council  
20 shall approve allocations from the fund on the established  
21 priority basis and, working with the school district and  
22 pursuant to the Procurement Code, enter into construction  
23 contracts with contractors to correct the outstanding  
24 deficiencies.

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1 F. In entering into construction contracts to  
2 correct outstanding deficiencies pursuant to this section, the  
3 council shall include such terms and conditions as necessary to  
4 ensure that the state money is expended in the most prudent  
5 manner possible and consistent with the original purpose.

6 G. Any outstanding deficiency may be corrected  
7 pursuant to this section, regardless of the local effort or  
8 percentage of indebtedness of the school district.

9 H. It is the intent of the legislature that all  
10 needs of school districts for additional facilities to  
11 accommodate a full-day kindergarten program and  
12 all outstanding serious code deficiencies in public schools and  
13 grounds that may adversely affect the health or safety of  
14 students and school personnel be identified and funded pursuant  
15 to this section no later than June 30, 2004."

16 Section 7. A new section of the Public School Capital  
17 Outlay Act, Section 22-24-4.2 NMSA 1978, is enacted to read:

18 "22-24-4.2. [NEW MATERIAL] DEFICIENCIES CORRECTION  
19 UNIT. --

20 A. A "deficiencies correction unit" is created as  
21 part of the public school capital outlay council. The unit  
22 shall be headed by a director, selected by the council, who  
23 shall be versed in construction, architecture or project  
24 management. Within budgetary constraints, the director shall  
25

1 employ or contract with such technical and administrative  
2 personnel as are necessary to carry out the provisions of this  
3 section. The director shall be exempt from the provisions of  
4 the Personnel Act.

5 B. The deficiencies correction unit shall:

6 (1) work with the local school districts to  
7 validate the assessment of the outstanding deficiencies and the  
8 projected costs to correct the deficiencies;

9 (2) work with the school districts to provide  
10 direct oversight of the management and construction of the  
11 projects that will correct the outstanding deficiencies;

12 (3) oversee all aspects of the contracts  
13 entered into by the council to correct the outstanding  
14 deficiencies;

15 (4) conduct on-site inspections while the  
16 deficiencies correction work is being done to assure that the  
17 construction specifications are being met and periodically  
18 inspect all of the documents relating to the projects;

19 (5) require the use of standardized  
20 construction documents as defined by the property control  
21 division of the general services department and the use of a  
22 standardized process for change orders; and

23 (6) have access to the premises of a project  
24 and any documentation relating to the project. "

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1 Section 8. Section 22-24-5 NMSA 1978 (being Laws 1975,  
2 Chapter 235, Section 5, as amended) is amended to read:

3 "22-24-5. [~~FUND--DISTRIBUTION~~] PUBLIC SCHOOL CAPITAL  
4 OUTLAY PROJECTS-- APPLICATION-- GRANT ASSISTANCE. --

5 A. For project allocation cycles occurring before  
6 September 1, 2003, the council shall approve an application for  
7 grant assistance from the fund for a public school capital  
8 outlay project not wholly funded pursuant to Section 22-24-4.1  
9 NMSA 1978, when the council determines that:

10 (1) a [~~critical~~] need exists requiring action;

11 (2) the residents of the school district have  
12 provided available resources to the school district to meet its  
13 capital outlay requirements;

14 (3) the school district has used its capital  
15 resources in a prudent manner;

16 [~~(4) the school district is in a county or~~  
17 ~~counties which have participated in a reappraisal program and~~  
18 ~~the reappraised values are on the tax rolls or will be used for~~  
19 ~~the tax year 1979 as certified by the property tax division of~~  
20 ~~the taxation and revenue department;~~

21 (5)] (4) the school district has provided  
22 insurance for buildings of the school district in accordance  
23 with the provisions of Section 13-5-3 NMSA 1978;

24 [(6) unless a determination and certification  
25

1 ~~have been made pursuant to Subsection D of this section]~~

2 (5) the school district:

3 (a) is indebted at not less than  
4 ~~[seventy-five]~~ sixty-five percent of the total general  
5 obligation debt authorized by law; or

6 (b) within the last three years, was  
7 indebted at the level required in Subparagraph (a) of this  
8 paragraph and received a grant pursuant to this section for the  
9 initial stages of a project and currently has a critical need  
10 for an additional grant to complete the same project;

11 (6) the application includes the capital needs  
12 of any charter schools located in the school district or the  
13 school district has shown that the capital needs of the charter  
14 schools are not as great as the capital needs requested in the  
15 application; and

16 (7) the school district has submitted a five-  
17 year facilities plan that includes:

18 (a) enrollment projections;

19 (b) a current preventive maintenance  
20 plan to which the school adheres for each public school in the  
21 district; and

22 (c) projections for the facilities  
23 needed in order to maintain a full-day kindergarten program

24 B. The council shall consider all applications for  
25

1 assistance from the fund and, after a public hearing, shall  
2 either approve or deny the application. Applications for grant  
3 assistance shall only be accepted by the council after a school  
4 district has complied with the provisions of this section. The  
5 council shall list all applications in order of priority, and  
6 all allocations shall be made on a priority basis, except:

7 (1) twenty million dollars (\$20,000,000) of  
8 the proceeds from supplemental severance tax bonds [~~issued~~  
9 ~~annually in fiscal years 2001 through 2003~~] available for the  
10 funding cycle in fiscal year 2001 and fifty million dollars  
11 (\$50,000,000) of the proceeds from supplemental severance tax  
12 bonds available for the funding cycle in each of fiscal years  
13 2002 and 2003 shall be set aside for allocation solely for  
14 projects in school districts that are eligible for funding from  
15 the fund and that receive grants from the federal government as  
16 assistance to areas affected by federal activity authorized in  
17 accordance with Title 20 of the United States Code, commonly  
18 known as "PL 874 funds" or "impact aid"; and

19 (2) in the case of an emergency, the order of  
20 priority shall first reflect those projects [~~which~~] that have  
21 been previously funded but are not as yet completed, excluding  
22 expansion of those projects and contingent upon maintenance of  
23 the required local support.

24 [~~C. Money in the fund shall be disbursed by warrant~~  
25

1 ~~of the department of finance and administration on vouchers~~  
2 ~~signed by the secretary of finance and administration following~~  
3 ~~certification by the council that the application has been~~  
4 ~~approved.~~

5 ~~D. If the council makes a determination and~~  
6 ~~certifies to the state board that after January 1, 2001, either~~  
7 ~~a constitutional amendment has been adopted that provides~~  
8 ~~additional or supplemental revenue sources for public school~~  
9 ~~capital outlay funding or another long-term revenue source~~  
10 ~~exists that is expected to exceed sixty million dollars~~  
11 ~~(\$60,000,000) per year, then, in all subsequent application and~~  
12 ~~allocation cycles]~~

13 C. For allocation cycles beginning after September  
14 1, 2003, the following provisions apply:

15 (1) all school districts are eligible to apply  
16 for funding from the fund, regardless of percentage of  
17 indebtedness;

18 (2) priorities for funding shall be [given to  
19 those capital projects that:

20 (a) ~~are necessary for health and safety;~~

21 (b) ~~were previously funded by the~~  
22 ~~council but are not yet completed;~~

23 (c) ~~are for school districts with low~~  
24 ~~assessed valuation compared to other districts;~~

1                   ~~(d) provide necessary classrooms due to~~  
2 ~~student population increases or that improve existing school~~  
3 ~~facilities, including portable classroom facilities that have~~  
4 ~~been used for a long period of time; and~~

5                   ~~(e) are renovation projects that will~~  
6 ~~forestall substantial capital outlay costs in the future~~  
7 ~~rather than new construction, unless health and safety concerns~~  
8 ~~require new construction;~~

9                   ~~(3) in establishing the priority for capital~~  
10 ~~projects to be funded, the council shall consider:~~

11                   ~~(a) the school district's total assessed~~  
12 ~~valuation per student;~~

13                   ~~(b) the school district's remaining~~  
14 ~~bonding capacity;~~

15                   ~~(c) other sources of revenue available~~  
16 ~~to the school district for capital outlay projects; and~~

17                   ~~(d) whether the project is shown as a~~  
18 ~~priority project in the school district's most recent five-year~~  
19 ~~facilities plan] determined by using the statewide adequacy~~  
20 ~~standards developed pursuant to Subsection D of this section;~~  
21 ~~provided that the council shall apply the standards to charter~~  
22 ~~schools to the same extent that they are applied to other~~  
23 ~~public schools;~~

24                   ~~[(4)]~~ (3) after consulting with the staff

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1 architect of the property control division of the general  
2 services department, the council shall establish criteria [~~and~~  
3 ~~standards~~] to be used in public school capital outlay projects  
4 that receive grant assistance pursuant to the Public School  
5 Capital Outlay Act. In establishing the criteria, [~~and~~  
6 ~~standards~~] the council shall consider:

7 (a) the feasibility of using design,  
8 build and finance arrangements for public school capital outlay  
9 projects;

10 (b) the potential use of more durable  
11 construction materials that may reduce long-term operating  
12 costs; and

13 (c) any other financing or construction  
14 concept that may maximize the dollar effect of the state grant  
15 assistance;

16 [~~(5)~~] (4) no more than ten percent of the  
17 combined total of grants in a funding cycle shall be used for  
18 retrofitting existing facilities for technology infrastructure;

19 [~~(6)~~] (5) except as provided in Paragraph (6)  
20 of this subsection, a project approved and ranked by the  
21 council shall be funded within available resources in  
22 accordance with the following formula:

23 (school district final prior year  
24 assessed valuation per MEM ÷ the state  
25

1 average final prior year assessed  
2 valuation per MEM) x 0.5. The product is  
3 subtracted from 1.0 and the difference is  
4 then multiplied by seventy-five percent.  
5 The product of that calculation added to  
6 (the percent of bonding capacity used x  
7 0.25) equals the percentage of the cost  
8 of the approved project to be funded from  
9 the fund. "MEM" means the total  
10 enrollment of students attending public  
11 school in a school district in the final  
12 funded prior school year, with  
13 kindergarten being counted as 0.5. In  
14 those instances in which the formula  
15 provides less than 0.1, 0.1 shall be used  
16 as the state's share; [and]

17 [~~(7)~~] (6) in those instances in which a school  
18 district has used all of its local resources, the council may  
19 fund the total amount of a project; and

20 (7) no application for grant assistance from  
21 the fund shall be approved unless the council determines that:

22 (a) the public school capital outlay  
23 project is needed and included in the school district's five-  
24 year facilities plan among its top priorities;  
25

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1                   (b) the school district has used its  
2 capital resources in a prudent manner;

3                   (c) the school district has provided  
4 insurance for buildings of the school district in accordance  
5 with the provisions of Section 13-5-3 NMSA 1978;

6                   (d) the school district has submitted a  
7 five-year facilities plan that includes: 1) enrollment  
8 projections; 2) a current preventive maintenance plan to which  
9 the school adheres for each public school in the district; and  
10 3) projections for the facilities needed in order to maintain a  
11 full-day kindergarten program;

12                   (e) the school district is willing and  
13 able to pay any portion of the total cost of the public school  
14 capital outlay project that, according to Paragraph (5) of this  
15 subsection established by law, is not funded with grant  
16 assistance from the fund;

17                   (f) the application includes the capital  
18 needs of any charter schools located in the school district or  
19 the school district has shown that the facilities of the  
20 charter schools in the district meet the statewide adequacy  
21 standards; and

22                   (g) the school district has agreed, in  
23 writing, to comply with any reporting requirements or  
24 conditions imposed by the council pursuant to Section 22-24-5.1  
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1 NMSA 1978.

2 D. After consulting with the public school capital  
3 outlay task force and other experts, no later than September 1,  
4 2002, the council shall develop statewide adequacy standards  
5 applicable to all school districts. The standards shall  
6 establish the minimum acceptable level for the physical  
7 condition and capacity of buildings, the educational  
8 suitability of facilities and the need for technological  
9 infrastructure. The amount of outstanding deviation from the  
10 standards shall be used by the council after September 1, 2003  
11 in evaluating and prioritizing public school capital outlay  
12 projects.

13 E. It is the intent of the legislature that grant  
14 assistance made pursuant to this section allow every school  
15 district to meet the standards developed pursuant to Subsection  
16 D of this section; provided, however, that nothing in the  
17 Public School Capital Outlay Act or the development of  
18 standards pursuant to that act prohibits a school district from  
19 using local funds to exceed the statewide adequacy standards.

20 F. Upon request, the council shall work with, and  
21 provide assistance and information to, the public school  
22 capital outlay task force.

23 G. The council may establish committees or task  
24 forces, not necessarily consisting of council members, and may  
25

1 use the committees or task forces, as well as existing agencies  
 2 or organizations, to conduct studies, conduct surveys, submit  
 3 recommendations or otherwise contribute expertise from the  
 4 public schools, programs, interest groups and segments of  
 5 society most concerned with a particular aspect of the  
 6 council's work.

7 [E.] H. The council shall promulgate such rules as  
 8 are necessary to carry out the provisions of the Public School  
 9 Capital Outlay Act.

10 I. No later than December 1 of each year, the  
 11 council shall prepare a report summarizing its activities  
 12 during the previous fiscal year. The report shall describe in  
 13 detail all projects funded, the progress of projects previously  
 14 funded but not completed, the criteria used to prioritize and  
 15 fund projects and all other council actions. The report shall  
 16 be submitted to the state board, the governor, the legislative  
 17 finance committee, the legislative education study committee  
 18 and each member of the legislature."

19 Section 9. A new section of the Public School Capital  
 20 Outlay Act, Section 22-24-5.1 NMSA 1978, is enacted to read:

21 "22-24-5.1. [NEW MATERIAL] COUNCIL ASSISTANCE AND  
 22 OVERSIGHT. -- In providing grant assistance pursuant to Section  
 23 22-24-5 NMSA 1978, the council shall:

24 A. assist school districts in identifying critical  
 25

1 capital outlay needs and in preparing grant applications;

2 B. take such actions as are necessary to assist  
3 school districts in implementing the projects for which grants  
4 are made, including assistance with the preparation of requests  
5 for bids or proposals, contract negotiations and contract  
6 implementation;

7 C. take such actions as are necessary to ensure  
8 cost savings and efficiencies for those school districts that  
9 are not large enough to maintain their own construction  
10 management staff; and

11 D. include such reporting requirements and  
12 conditions and take such actions as are necessary to ensure  
13 that the grants are expended in the most prudent manner  
14 possible and consistent with the original purpose for which  
15 they were made. In order to ensure compliance with the intent  
16 of this subsection, the council may:

17 (1) access the premises of a project and  
18 review any documentation relating to a project;

19 (2) withhold all or part of the amount of  
20 grant assistance available for a project for grounds  
21 established by rule of the council; and

22 (3) if it determines that a project is  
23 repeatedly in substantial noncompliance with any reporting  
24 requirement or condition, take over the direct administration  
25

1 of the project until the project is completed."

2 Section 10. Section 22-25-9 NMSA 1978 (being Laws 1975  
3 (S.S.), Chapter 5, Section 9, as amended by Laws 1988, Chapter  
4 64, Section 44 and also by Laws 1988, Chapter 66, Section 2) is  
5 amended to read:

6 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING  
7 TAX UNDER CERTAIN CIRCUMSTANCES. --

8 [~~The director~~] A. Except as provided in Subsection  
9 C of this section, the state superintendent shall distribute to  
10 any school district that has imposed a tax under the Public  
11 School Capital Improvements Act an amount from the public  
12 school capital improvements fund that is equal to the amount by  
13 which the revenue estimated to be received from the imposed  
14 tax, at the rate certified by the department of finance and  
15 administration in accordance with Section 22-25-7 NMSA 1978,  
16 assuming a one hundred percent collection rate, is less than an  
17 amount calculated by multiplying the school district's first  
18 forty-days' total program units [~~times thirty-five dollars~~  
19 (~~\$35.00~~)] by the dollar amount specified in Subsection B of  
20 this section and further multiplying the product obtained by  
21 the tax rate approved by the qualified electors in the most  
22 recent election on the question of imposing a tax under the  
23 Public School Capital Improvements Act. The distribution shall  
24 be made each year that the tax is imposed in accordance with  
25

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1 Section 22-25-7 NMSA 1978; provided that no state distribution  
2 from the public school capital improvements fund may be used  
3 for capital improvements to any administration building of a  
4 school district. In the event that sufficient funds are not  
5 available in the public school capital improvements fund to  
6 make the state distribution provided for in this section, the  
7 dollar per program unit figure shall be reduced as necessary.

8 B. In calculating the state distribution pursuant  
9 to Subsection A of this section, the following amounts shall be  
10 used:

11 (1) fifty dollars (\$50.00) per program unit;

12 and

13 (2) for fiscal year 2005 and thereafter, an  
14 additional amount certified to the state superintendent by the  
15 public school capital outlay council. No later than June 1,  
16 2004 and each June 1 thereafter, the council shall determine  
17 the amount needed in the next fiscal year for public school  
18 capital outlay projects pursuant to the Public School Capital  
19 Outlay Act and the amount of revenue, from all sources,  
20 available for the projects. If, in the sole discretion of the  
21 council, the amount available exceeds the amount needed, the  
22 council may certify an additional amount pursuant to this  
23 paragraph; provided that the sum of the amount calculated  
24 pursuant to this paragraph plus the amount in Paragraph (1) of  
25 this subsection shall not result in a total statewide



1 distribution that, in the opinion of the council, exceeds one-  
 2 half of the total revenue estimated to be received from taxes  
 3 imposed pursuant to the Public School Capital Improvements Act.

4 C. Notwithstanding the amount calculated to be  
 5 distributed pursuant to Subsections A and B of this section, no  
 6 school district, the voters of which have approved a tax  
 7 pursuant to Section 22-25-3 NMSA 1978, shall receive a  
 8 distribution less than an amount equal to five dollars (\$5.00)  
 9 multiplied by the school district's first forty days' total  
 10 program units and further multiplying the product obtained by  
 11 the approved tax rate.

12 D. In making distributions pursuant to this  
 13 section, the state superintendent shall include such reporting  
 14 requirements and conditions as are required by rule of the  
 15 public school capital outlay council. The council shall adopt  
 16 such requirements and conditions as are necessary to ensure  
 17 that the distributions are expended in the most prudent manner  
 18 possible and consistent with the original purpose as specified  
 19 in the authorizing resolution. Copies of reports or other  
 20 information received by the state superintendent in response to  
 21 the requirements and conditions shall be forwarded to the  
 22 council."

23 Section 11. Laws 1999 (1st S.S.), Chapter 6, Section 19  
 24 is amended to read:

25 "Section 19. SUPPLEMENTAL SEVERANCE TAX BONDS--PURPOSE

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1 FOR WHICH ISSUED-- APPROPRIATION OF PROCEEDS. --

2 A. The state board of finance may issue and sell  
3 supplemental severance tax bonds in compliance with the  
4 Severance Tax Bonding Act in the following amounts for the  
5 following purposes upon the following certification:

6 (1) an amount not exceeding one hundred  
7 million dollars (\$100,000,000) when the public school capital  
8 outlay council certifies by resolution the need for the  
9 issuance of the bonds for public school critical capital outlay  
10 projects pursuant to the Public School Capital Outlay Act; and

11 (2) an amount not exceeding twenty-five  
12 million dollars (\$25,000,000) when the commission on higher  
13 education certifies by resolution the need for the issuance of  
14 the bonds for infrastructure renovation and expansion at the  
15 state's public post-secondary educational institutions or other  
16 educational institutions confirmed in Article 12, Section 11 of  
17 the constitution of New Mexico pursuant to a plan developed and  
18 approved by the commission on higher education to fund the  
19 highest priority significant needs identified by the  
20 commi ssi on.

21 [~~C.~~] B. The state board of finance shall schedule  
22 the issuance and sale of the bonds in the most expeditious and  
23 economical manner possible upon a finding by the board that the  
24 projects have been developed sufficiently to justify the  
25 issuance and that the projects can proceed to contract within a

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1 reasonable time. The state board of finance shall further take  
 2 the appropriate steps necessary to comply with the Internal  
 3 Revenue Code of 1986, as amended.

4 ~~[D.]~~ C. The proceeds from the sale of the bonds  
 5 pursuant to Paragraph (1) of Subsection A of this section are  
 6 appropriated to the public school capital outlay fund to carry  
 7 out the provisions of the Public School Capital Outlay Act. If  
 8 the public school capital outlay council has not certified the  
 9 need for the issuance of the bonds by the end of fiscal year  
 10 ~~[2004]~~ 2001, authorization provided in this section shall  
 11 expire. Any unexpended or unencumbered balance remaining from  
 12 the proceeds of bonds issued pursuant to Paragraph (1) of  
 13 Subsection A of this section at the end of fiscal year 2006  
 14 shall revert to the severance tax bonding fund.

15 ~~[E.]~~ D. The proceeds from the sale of the bonds in  
 16 Paragraph (2) of Subsection A of this section are appropriated  
 17 to the commission on higher education for distribution to the  
 18 governing bodies of the educational institutions who have  
 19 certified projects for funding with the bond proceeds. If the  
 20 commission on higher education has not certified the need for  
 21 the issuance of the bonds by the end of fiscal year 2004,  
 22 authorization provided in this section shall expire. Any  
 23 unexpended or unencumbered balance remaining from the proceeds  
 24 of bonds issued pursuant to Paragraph (2) of Subsection A of  
 25 this section at the end of fiscal year 2006 shall revert to the

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1 severance tax bonding fund. "

2 Section 12. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY  
3 TASK FORCE-- CREATION-- STAFF. --

4 A. The "public school capital outlay task force" is  
5 created. The task force consists of twenty-one members as  
6 follows:

7 (1) the dean of the university of New Mexico  
8 school of law, or his designee;

9 (2) the dean of the New Mexico state  
10 university college of engineering or his designee;

11 (3) the secretary of finance and  
12 administration or his designee;

13 (4) the state investment officer or his  
14 designee;

15 (5) the superintendent of public instruction  
16 or his designee;

17 (6) the chairmen of the house appropriations  
18 and finance committee, the senate finance committee, the senate  
19 education committee and the house education committee or their  
20 designees;

21 (7) a minority party member of the house of  
22 representatives, appointed by the New Mexico legislative  
23 council;

24 (8) a minority party member of the senate,  
25 appointed by the New Mexico legislative council;

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1 (9) two public members who have expertise in  
2 education and finance appointed by the speaker of the house of  
3 representatives;

4 (10) two public members who have expertise in  
5 education and finance appointed by the president pro tempore of  
6 the senate;

7 (11) three public members who have expertise  
8 in education and finance appointed by the governor; and

9 (12) three superintendents of school districts  
10 or their designees that receive grants from the federal  
11 government as assistance to areas affected by federal activity  
12 authorized in accordance with Title 20 of the United States  
13 Code, appointed by the New Mexico legislative council in  
14 consultation with the governor.

15 B. The chair of the task force shall be elected by  
16 the task force. The public school capital outlay task force  
17 shall meet at the call of the chair.

18 C. The public members of the public school capital  
19 outlay task force shall receive per diem and mileage pursuant  
20 to the Per Diem and Mileage Act.

21 D. The legislative council service, with assistance  
22 from the department of finance and administration, the  
23 investment office, the state department of public education,  
24 the legislative education study committee and the legislative  
25 finance committee, shall provide staff for the public school

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1 capital outlay task force.

2 Section 13. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL OUTLAY  
3 TASK FORCE--DUTIES.--The public school capital outlay task  
4 force shall:

5 A. study and evaluate the progress and  
6 effectiveness of programs administered pursuant to the Public  
7 School Capital Outlay Act and the Public School Capital  
8 Improvements Act;

9 B. evaluate the existing permanent revenue streams  
10 and other potential revenues as adequate long-term funding  
11 sources for public school capital outlay projects and recommend  
12 any changes that may be more cost-effective or appropriate;

13 C. evaluate the effectiveness and fairness of the  
14 formula used in determining the amount of grant assistance that  
15 an approved public school capital outlay project may receive  
16 from the public school capital outlay fund and recommended any  
17 proposed changes to the legislature;

18 D. monitor and assist the public school capital  
19 outlay council as it:

20 (1) defines outstanding public school capital  
21 outlay deficiencies pursuant to Section 22-24-4.1 NMSA 1978;

22 (2) works with school districts in conducting  
23 a self-assessment of the projects needed to correct the  
24 outstanding deficiencies and establishes criteria for  
25 addressing those needs;

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1 (3) develops statewide adequacy standards that  
2 establish the minimum acceptable level for the physical  
3 condition and capacity of public school buildings, the  
4 educational suitability of educational facilities and the need  
5 for technological infrastructure; and

6 (4) develops guidelines and procedures for  
7 reporting requirements and conditions to ensure that the grants  
8 are expended in the most prudent manner possible and consistent  
9 with the original purpose for which they were made; and

10 E. no later than December 1 of each year, report  
11 the results of its analyses and its findings and  
12 recommendations to the governor and the legislature.

13 Section 14. SEVERANCE TAX BONDS--PURPOSE--APPROPRIATION  
14 OF PROCEEDS.--The state board of finance may issue and sell  
15 severance tax bonds in fiscal years 2002 and 2003 in compliance  
16 with the Severance Tax Bonding Act in an amount not exceeding a  
17 total of one hundred million dollars (\$100,000,000) when the  
18 public school capital outlay council certifies the need for the  
19 issuance of the bonds. The state board of finance shall  
20 schedule the issuance and sale of the bonds in the most  
21 expeditious and economical manner possible. The proceeds from  
22 the sale of the bonds are appropriated to the public school  
23 capital outlay fund for the purpose of providing grant  
24 assistance for public school capital outlay projects that are  
25 needed to correct outstanding deficiencies pursuant to Sections  
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1 22-24-4.1 and 22-24-4.2 NMSA 1978. Any unexpended or  
2 unencumbered balance remaining at the end of fiscal year 2006  
3 shall revert to the severance tax bonding fund. If the public  
4 school capital outlay council has not certified the need for  
5 the issuance of the bonds by the end of fiscal year 2003, the  
6 authorization provided in this section shall expire.

7 Section 15. APPROPRIATIONS. --

8 A. Two million three hundred thousand dollars  
9 (\$2,300,000) is appropriated from the general fund to the state  
10 department of public education for expenditure in fiscal years  
11 2001 through 2003 for the purpose of completing a statewide  
12 needs and cost assessment of all school districts in order to  
13 identify all needed public school capital outlay projects. Any  
14 unexpended or unencumbered balance remaining at the end of  
15 fiscal year 2003 shall revert to the general fund.

16 B. Two hundred thousand dollars (\$200,000) is  
17 appropriated from the general fund to the state department of  
18 public education for expenditure in fiscal year 2002 for the  
19 purpose of assisting the public school capital outlay council  
20 in performing those duties required of it pursuant to the  
21 Public School Capital Outlay Act. The appropriation may be  
22 expended by the department in the manner deemed by the  
23 department and council to be the most expedient and cost  
24 effective, including expenditures for employees and for  
25 contractual services. Any unexpended or unencumbered balance



1 remaining at the end of fiscal year 2002 shall revert to the  
2 general fund.

3 C. One million one hundred thousand dollars  
4 (\$1,100,000) is appropriated from the general fund to the  
5 deficiencies correction unit of the public school capital  
6 outlay council for expenditure in fiscal years 2001 and 2002  
7 for the purpose of carrying out its duties pursuant to the  
8 Public School Capital Outlay Act. Any unexpended or  
9 unencumbered balance remaining at the end of fiscal year 2002  
10 shall revert to the general fund.

11 D. Fifty million dollars (\$50,000,000) is  
12 appropriated from the general fund to the public school capital  
13 outlay fund for expenditure in fiscal years 2001 through 2004  
14 for the purpose of correcting outstanding deficiencies pursuant  
15 to Sections 22-24-4.1 and 22-24-4.2 NMSA 1978. Any unexpended  
16 or unencumbered balance remaining at the end of fiscal year  
17 2004 shall not revert but shall be used for the purpose of  
18 providing grant assistance pursuant to Section 22-24-5 NMSA  
19 1978.

20 E. Fifty million dollars (\$50,000,000) is  
21 appropriated from the general fund to the public school capital  
22 outlay fund for expenditure in fiscal years 2002 through 2004  
23 for the purpose of correcting outstanding deficiencies pursuant  
24 to Sections 22-24-4.1 and 22-24-4.2 NMSA 1978. The  
25 appropriation is contingent upon the secretary of general

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1 services and the secretary of finance and administration  
2 certifying that the public school capital outlay council has,  
3 by rule, adopted a project management system to ensure that the  
4 projects will be constructed in the most cost-effective and  
5 efficient manner. Any unexpended or unencumbered balance  
6 remaining at the end of fiscal year 2004 shall not revert but  
7 shall be used for the purpose of providing grant assistance  
8 pursuant to Section 22-24-5 NMSA 1978.

9 F. Twenty thousand dollars (\$20,000) is  
10 appropriated from the general fund to the legislative council  
11 service for expenditure in fiscal years 2001 and 2002 for the  
12 purpose of paying per diem and mileage for public members of  
13 the public school capital outlay task force. Any unexpended or  
14 unencumbered balance remaining at the end of fiscal year 2002  
15 shall revert to the general fund.

16 Section 16. REPEAL. --Laws 2000, Chapter 95, Section 2 and  
17 Laws 2000 (2nd S. S.), Chapter 11, Section 3 are repealed.

18 Section 17. DELAYED REPEAL. --Sections 12 and 13 of this  
19 act are repealed effective January 1, 2004.

20 Section 18. EFFECTIVE DATE. --The effective date of the  
21 provisions of Sections 1 through 3, 8 and 16 of this act is  
22 July 1, 2001.

23 Section 19. EMERGENCY. --It is necessary for the public  
24 peace, health and safety that this act take effect immediately.

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